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a Massachusetts consumer guide to

the 30-day demand letter

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Consumer Affairs &
Business Regulation



30-day demand letter.

If you are unable to resolve a complaint with a merchant informally, then you may decide to take legal action. If your problem involves an unfair or deceptive practice, which is a violation the Massachusetts Consumer Protection Act, the law requires you to send the merchant a letter 30 days before filing a claim in court. (M.G.L. c. 93A). The letter must outline your complaint, the harm you suffered, and how you want the problem resolved. This is called a 30 Day Demand Letter.

The merchant must make a good faith response within 30 days, or it could subject him/her to triple damages and attorney's fees. The 30 Day Demand Letter serves to encourage the merchant to negotiate and settle the claims out of court. It also establishes the amount of monetary damages you can recover if the charges are proven in court.

TAKING THE FIRST STEP

You must send a 30 Day-Demand Letter whether your action will be brought in Superior Court, District Court, Small Claims Court or Housing Court. You do not need to send this letter if the merchant does not maintain a place of business or keep assets within Massachusetts. You also do not need to send this letter if you assert the claim in a *counterclaim* or *cross-claim* response to a merchant taking legal action against you.

other resources.

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Consumer Hotline

(617) 727-7780
Toll Free (888) 283-3757


Online Resource Center

<http://www.consumer.com/consumer>

e-mail

ask@consumer.com

This publication provides general information about Massachusetts consumer issues and procedures. It is not designed to address all questions in detail and consumers are encouraged to seek further guidance by contacting the agency directly.

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**Consumer Affairs &
Business Regulation**



SAMPLE 30-DAY DEMAND LETTER:

Your name
Your address
Your telephone number
Date

Name of Merchant
Merchant's address

Dear Merchant:

Under the provisions of Massachusetts General Laws, Chapter 93A, Section 9, I hereby make written demand for relief as outlined in that statute.

On or about {date}, the following unfair or deceptive act occurred:

{EXPLAIN WHAT HAPPENED}



This unfair or deceptive act or practice is, in my opinion, declared unlawful by Section 2 of Chapter 93A, (you may want to give regulation number, if applicable) which reads as follows:

{QUOTE TEXT OR SECTION. Remember: You are not required to quote written regulations or laws to support the assertion that the merchant's conduct was unfair or deceptive; it is, however, desirable. You will want to include all the regulations which you believe were violated.}



As a result of this unfair or deceptive act or practice, I suffered injury or loss of money as follows:

{INDICATE INJURY OR MONEY OR PROPERTY LOSS}



Therefore, I hereby demand the following relief:

{INDICATE RELIEF, OR PAYMENT FOR DAMAGES,
WHICH IS SOUGHT}



Chapter 93A gives you the opportunity to make a good-faith response to this letter within thirty (30) days. Your failure to do so-could subject you to triple damages, attorney's fees and costs if I decide to institute legal action.

Sincerely,

Your Name

Information That Must Be Included In the 30 Day Demand Letter

To meet your legal obligations, include the following information in your 30 Day Demand Letter:

1. Your full name and address

2. The description of the unfair or deceptive act or practice including all the unfair or deceptive practices claimed, the dates involved in the transaction, and any other important facts. If you know the regulation number of the regulation violated, you may wish to include it. However, you are not limited to written regulations or laws.

3. Clearly explain the injury you suffered as a result of the unlawful act, such as:

- Failure to return a security deposit results in the loss of money.
- Sale of a defective household appliance results in the ownership of a useless and worthless product.
- Failure of the TV repairman to repair a broken set results in payment for services improperly performed.
- Purchase of goods through "bait and switch" tactics results in owning unwanted goods which are more expensive than originally planned.

Unfair and deceptive practices under Chapter 93A are defined in regulations available from the State House Bookstore (617/727-2834).

4. The demanded relief including the amount of money you are demanding to recover.

Although it is not required by law, the 30-Day Demand Letter should be sent by certified mail, return-receipt requested, so that you will have proof of delivery. Send the letter by regular mail also, and keep a copy for your files.

WRITTEN OFFER OF SETTLEMENT

Once you mail the 30 Day Demand Letter, the merchant has thirty days to respond in writing. You then must decide to either reject or accept the merchant's offer. If you reject an offer which the Court later finds to be reasonable, then the Court may limit the amount of money you can collect. The Court may limit your recovery to the amount the merchant originally offered to you.

The Court may find in your favor because either the merchant never sent a settlement offer or sent you an unreasonable offer. You then may be able to recover your actual monetary damages, or \$25, whichever is greater.

The Court may also find that the merchant's violation of the Consumer Protection Act was "willful or knowing," or that the merchant's refusal to settle with you was made in bad faith. In either case, you may receive between two and three times the amount of your actual damages, or \$25, whichever is greater.

If the Court finds in your favor, you are entitled to reasonable attorney's fees and costs. However, the Court may not award you attorney's fees if you initially rejected a reasonable settlement offer.



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